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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,956	02/19/2002	Roberto Padovani	010536	9226
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QUALCOMM INCORPORATED			EXAMINER	
5775 MOREHOUSE DR.			HO, DUC CHI	
SAN DIEGO, CA 92121				
			ART UNIT	PAPER NUMBER
			2616	
			NOTIFICATION DATE	DELIVERY MODE
			07/17/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

10/079,956

Applicant(s)

PADOVANI ET AL.

Examiner

Duc C. Ho

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22, 24-28 and 30-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-10, 14-22, 24-28, and 30-41 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 11-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(b) that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rich (US 5,940,452).

Regarding claim 1, Rich discloses dual mode radio subscriber unit having a diversity receiver apparatus and method therefore.

*a receiver, including a plurality of receiver chains adapted for processing in the receiver, for receiving a pilot channel and determining a channel condition of said pilot channel* (a radio subscriber unit 702-fig.7 includes two receivers 126, and 706, or receiver chains for processing in the unit 702-fig.7, for receiving a carrier to interference ratio  $E_c/I_o$  of a pilot channel, and inherently determining a response of the ratio  $E_c/I_o$  of the pilot channel, see col. 22-line 15 to col. 24-line7);

*a control system for controlling receive diversity of said receiver by selecting a number of said plurality of receiver chains based on said determined channel condition* (a controller 108-fig.1 controls the selection the first receiver 126 and the second receiver 706-fig.7 based on the response of the interference ratio).

Regarding claim 2, Rich discloses the steps 202, 204-206, fig.2 in response to the S RSSI (the ratio of  $E_c/I_o$ ) greater than a predetermined threshold, that the controller 108-fig.1 selects either the first antenna 114-fig. 7 for the first receiver or the second antenna 705 for the second receiver, see col. 13-line 49 to col. 15-line 19.

Regarding claim 3, Rich's system is capable of increasing the number of receivers when the S RSSI (or the ratio  $E_c/I_o$ ) is below a second condition threshold.

Regarding claim 4, this claim has similar limitations as claims 2, and 3. Therefore, it is rejected under Rich for the same reasons set forth in the rejection of claims 2, and 3.

Regarding claims 7-10, these claims have similar limitations as claims 1-4, respectively. Therefore, they are rejected under Rich for the same reasons set forth in the rejection of claims 1-4.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 14-22, 24-28, and 30-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rich, in view of Willey ( US 6,505,058).

Regarding claim 14, Rich discloses all claimed limitations, except determining a first data bit of the QPCH received a mobile station in accordance with processing of one or more signals produced based on the determined receive diversity.

One skill in the art would recognize the advantage of employing a single bit message of QPCH based on a determined diversity to direct a mobile station so that the mobile station can configure itself to sleep mode or not in accordance with the data bit in order to save the battery power within a single charge.

Willey discloses a method for determining whether to wake up a mobile station. The mobile station receives a QPCH bit representing by “On” (corresponding to 1), “Off” (corresponding to zero), and “not certain” (corresponding to erasure). “On” also means the base station’s clearly transmitted the bit. This further means that the mobile station should not in sleep mode, so that it could receive data from the base station, see col. 5, lines 56-67, and col.5-line 45 to col.6-line 7.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Rich with Willey.

The suggestion/motivation for doing so would have been to provide a mobile station a capability of using a single bit message of QPCH, transmitted from the base station, based on a determined diversity to indicate a mode in such a way a mobile station can configure itself to sleep mode or not in accordance with the data bit in order to save its battery power within a single charge.

Therefore, it would have been obvious to combine Rich with Willey to obtain the invention as specified in claim 14.

Regarding claim 15, the system of Rich-Willey enables a mobile station in sleep mode when the determined first data bit is “Off”.

Regarding claim 16, the system of Rich-Willey should indicate a mobile station not in sleep mode when the determined first data bit is “On” or “not certain”.

Regarding claim 17, the system of Rich-Willey should direct its resource to decode the received information when the determined first data bit is “On” or “not certain”.

Regarding claim 18, the system of Rich-Willey enables a mobile station in sleep mode when the determined second data bit is “Off”.

Regarding claims 19-20, these claims have similar limitations as claims 14-15, respectively. Therefore, they are rejected under Rich-Willey for the same reasons set forth in the rejection of claims 14-15.

Regarding claims 21, this claim has similar limitations as claims 17-18. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claims 17-18.

Regarding claims 22, this claim has similar limitations as claims 14, and 16. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claims 14, and 16.

Regarding claim 24, this claim has similar limitations as claim 15. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claim 15.

Regarding claim 25, this claim has similar limitations as claims 16-17. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claims 16-17.

Regarding claim 26, this claim has similar limitations as claims 16, and 18. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claims 16, and 18.

Regarding claims 27-28, these claims have similar limitations as claims 14-15, respectively. Therefore, they are rejected under Rich-Willey for the same reasons set forth in the rejection of claims 14-15, respectively.

Regarding claims 30-31, these claims have similar limitations as claims 25-26, respectively. Therefore, they are rejected under Rich-Willey for the same reasons set forth in the rejection of claims 25-26, respectively. The mobile station of Rich is able to direct the battery power supply to receive a receive channel in response to the result of either a one or an erasure of Willey's bit.

Regarding claim 32, this claim has similar limitations as claims 14-17. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claims 14-17. The mobile station of Rich is able to direct the battery power supply to receive a receive channel in response to the result of either a one or an erasure of Willey's bit.

Regarding claim 33, in Rich the controller 108-fig. 1 is capable of directing the mobile resources, i.e., battery power supply, to receive a receive channel, after the determining receive diversity at the receiver, in accordance with a receive processing of the determined receive diversity.

Regarding claim 34, this claim has similar limitations as claims 31-32. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claims 31-32.

Regarding claim 35, this claim has similar limitations as claim 33. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claim 35.

Regarding claim 36, this claim has similar limitations as claim 32. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claim 32.

Regarding claim 37, this claim has similar limitations as claim 17. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claim 17.

Regarding claim 38, if the bit of Willey is an erasure based on the condition of the pilot channel received at the receiver of Rich, a condition in which the channel condition is below the threshold, the controller 108-fig.1 of Rich directing the battery power supply and the antennas to receive a receive channel.

Regarding claim 39, this claim has similar limitations as claim 36. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claim 36.

Regarding claim 40, this claim has similar limitations as claim 17. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claim 17.

Regarding claim 41, this claim has similar limitations as claim 38. Therefore, it is rejected under Rich-Willey for the same reasons set forth in the rejection of claim 38.

### ***Allowable Subject Matter***

6. Claims 5-6, 11-13 are objected to as being independent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and if the rejected base claim has overcome the obviousness-type double patenting.

### ***Response to Arguments***

7. Applicant's arguments filed 4-30-07 have been fully considered but they are not persuasive. Rich taught two receivers in figure 7.



### *Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Ho whose telephone number is (571) 272-3147. The examiner can normally be reached on Monday through Thursday from 7:30 am to 6:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-2988.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner

A handwritten signature in black ink, appearing to read 'Duc Ho', written in a cursive style.

Duc Ho

7-06-07